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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/026,385

Filing Date: December 21, 2001

Appellant(s): MONTERO, GABRIEL GARCIA

Scott D. Paul (Reg. No. 42,984)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 25 April 2008 appealing from the Office action mailed 25 January 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,493,703 B1	Knight et al.	12-2002
2002/0141584 A1	Razdan et al.	10-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3-6, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Knight et al. (U.S. 6,493,703 B1) hereinafter referred to as Knight.

- a. Regarding claim 1, Knight teaches: at least one message server (lines 7-12 of column 2); a plurality of topics stored in said at least one message server (line 67 of column 1 through line 7 of column 2, lines 6-12 of column 10, and Fig. 1A-1C); a plurality of subtopics associated with at least one of said topics in said at least one message server (lines 2-7 of column 2, lines 12-15 of column 10, and Fig. 1A-1C); and, a dynamic topic partitioning system configured to partition said at least one of said

topics into said subtopics (lines 7-19 of column 10), wherein messages are posted to (lines 7-12 of column 2) and retrieved from individual ones of said plurality of topics (lines 22-24 of column 2).

b. Regarding claim 3, Knight teaches: wherein said at least one message server resides in at least one process address space (line 62 of column 10 through line 1 of column 11 and Fig. 3A).

c. Regarding claim 4, Knight teaches: wherein said at least one process address space is a Java virtual machine (line 62 of column 10 through line 1 of column 11 and Fig. 3A).

d. Regarding claim 5, Knight teaches: a plurality of threads of execution, each said thread hosting a process for communicating a message between one of said subtopics in said at least one message server and a message subscriber (lines 2-4 of column 2, lines 13-15 of column 2, and lines 22-27 of column 10).

e. Regarding claim 6, Knight teaches: a message interface through which message publishers can post messages to selected topics (lines 7-12 of column 2), and from which message subscribers can request messages which have been published to selected topics (lines 21-24 of column 2); a subtopic store configured to distribute message of said selected topics within associated subtopics (lines 18-21 of column 2 and lines 12-19 of column 10); and, a request processor in which requests to post and retrieve messages to and from individual ones of said selected topics can be converted into message system requests to respectively post and retrieve messages to and from said associated subtopics in said subtopic store, said request processor processing

each of said converted message system requests in individual threads of execution (lines 7-18 of column 2, lines 21-24 of column 4, lines 28-31 of column 8, and lines 1-5 of column 10).

f. Regarding claims 8 and 9, Knight teaches: intercepting message requests for a selected topic from subscribers in the message system (lines 6-12 of column 10); associating said message requests with a plurality of subtopics created for said selected topic (lines 12-19 of column 10); and servicing said message requests with messages in said subtopics from within separate threads of execution for each subtopic-subscriber pair (lines 2-4 of column 2 and lines 13-15 of column 2 and lines 24-27 of column 10).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight as applied to claims 1 and 6 respectively above, in view of Razdan et al. (U.S. 2002/0141584 A1) hereinafter referred to as Razdan.

a. Regarding claim 2, while Knight teaches: Java applets and java virtual machine (line 62 of column 10 through line 1 of column 11 and Fig. 3A), Knight does not explicitly teach: wherein said message server is Java message service (JMS) compliant. However, Razdan discloses: "The application may deliver the reports

created by the accounting module as HTTP GET message. The server-to-server communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service (JMS)," (paragraph [0081] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have said message server as Java message service (JMS) compliant. "Similarly, Publisher's webserver will communicate with Clearinghouse web server to collect tracking information. Clearinghouse web server will send a HTTP POST message 410 to Publisher to relay the transaction information, and other tracking information it has collected during the course of the day or a given time period that is agreed to by the Publisher and Clearinghouse. Publisher may send HTTP POST message 462 on its own initiative to request transactional, tracking and auditing information from the Clearinghouse. This communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service," (paragraph [0082] on page 7 in Razdan). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have said message server as Java message service (JMS) compliant in the system as taught by Knight.

b. Regarding claim 7, while Knight teaches: Java applets and java virtual machine (line 62 of column 10 through line 1 of column 11 and Fig. 3A), Knight does not explicitly teach: wherein said message interface comports with the Java message service (JMS) specification. However, Razdan discloses: "The application may deliver the reports created by the accounting module as HTTP GET message. The server-to-server communication can be in the form of HTTP/SMTP mail message file transfer or

via Java Message Service (JMS)," (paragraph [0081] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have said message interface comport with the Java message service (JMS) specification. "Similarly, Publisher's webserver will communicate with Clearinghouse web server to collect tracking information. Clearinghouse web server will send a HTTP POST message 410 to Publisher to relay the transaction information, and other tracking information it has collected during the course of the day or a given time period that is agreed to by the Publisher and Clearinghouse. Publisher may send HTTP POST message 462 on its own initiative to request transactional, tracking and auditing information from the Clearinghouse. This communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service," (paragraph [0082] on page 7 in Razdan). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have said message interface comport with the Java message service (JMS) specification in the system as taught by Knight.

(10) Response to Argument

Appellant argues – Regarding claim 1, Knight does not teach “messages are posted to and retrieved from individual ones of said plurality of subtopics.” The appellant further contends that Knight teaches that messages are posted to a sub-topic and not to a topic.

In response to the above argument, the examiner points out that posting to a sub-topic implies the selection of a "parent" topic, and that posting to the sub-topic implicitly includes posting to the selected topic. Not only does this fact overcome the appellant's argument, Knight teaches the argued limitation: "In other words, unlike the prior art, which only indexes the text of messages usually for later search retrieval, the present invention also intelligently classifies and stores messages by subject matter area/class/subclass in advance based on understanding the context of the posting. For example, if a user responds with a reply posting to an original posting in a particular subject matter area, the present invention tags the reply posting with a parameter field specifying that the reply posting should also be classified in the same area as the original posting. Other potential classifications/subclassifications can be given to messages depending on logical inferences that can be drawn from their substance. For example, while a message might only mention a particular company name, it may be desirable to also classify such message by industry area as well, since this latter information is usually discernible from the company name. Thus, such reply message would include classification parameters corresponding to two different sub-

classifications, including by company name and by industry, and could later be retrieved by either sub-classification selection,” (lines 18-39 of column 12 in Knight). This recitation from Knight not only teaches posting to a single area, class, and subclass, but it goes further than the appellant's invention and is capable of cross-referencing the posted messages in multiple subclasses. The user responds with a reply to a particular subject matter area (lines 23-25 of column 12); the Knight invention tags the reply with the area (topic) corresponding to the original post (lines 25-28 of column 12); and can additionally subclassify messages by tagging them with company name or industry areas (lines 31-34 of column 12), for example.

Appellant argues – Regarding claim 5, Knight does not teach “a plurality of threads of execution.” The appellant provides no support for this argument other than a statement disclosing that Knight does not teach the limitation. The appellant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The examiner points out that “threads of execution” as defined by the appellant's specification are processes for communicating a message between the server and the subscriber. This is taught by Knight on lines 22-27 of column 10 which disclose: “customized search robots 232 create logical collections of messages based on individual user filtering criteria. To ensure that the independent functionality provided by customized search robots 232 does not overwhelm server 220, only a limited number of

such robots are made available to subscribers.” It is clear from this recitation that multiple search robots can be used by multiple users simultaneously. Because a “limited number of such robots are made available to subscribers,” it is also clear that the system of Knight processes multiple communications and thus is multi-threaded, based on the appellant’s definition of “threads of execution.”

Appellant argues – Regarding claim 6, Knight does not teach “messages are posted to (and requested from) selected topics and that a request processor converts (sic) requests to post and retrieve messages to and from individual ones of the selected topics into requests to and from associated subtopics.” The appellant provides no support for this argument other than a statement disclosing that Knight does not teach the limitation. The appellant’s arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. The examiner points to lines 18-30 of column 12 in Knight which disclose: “In other words, unlike the prior art, which only indexes the text of messages usually for later search retrieval, the present invention also intelligently classifies and stores messages by subject matter area/class/subclass in advance based on understanding the context of the posting. For example, if a user responds with a reply posting to an original posting in a particular subject matter area, the present invention tags the reply posting with a parameter field specifying that the reply posting should also be classified in the same area as the original posting. Other potential

classifications/subclassifications can be given to messages depending on logical inferences that can be drawn from their substance.” It is clear from this recitation that the system of Knight performs the exact limitation the appellant argues. In Knight, the requests to post and retrieve messages are intelligently classified and stored by area/class/subclass based on understanding the context. Therefore, the system does teach the argued limitation.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

mdm

01 July 2008

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